

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON FISH AND GAME

Call to Order: By **CHAIRMAN KEN MESAROS**, on January 12, 1999 at
3:00 P.M., in Room 402 Capitol.

ROLL CALL

Members Present:

Sen. Ken Mesaros, Chairman (R)
Sen. Mike Taylor, Vice Chairman (R)
Sen. Tom A. Beck (R)
Sen. Al Bishop (R)
Sen. William Crismore (R)
Sen. Steve Doherty (D)
Sen. Pete Ekegren (R)
Sen. Jon Ellingson (D)
Sen. Eve Franklin (D)
Sen. Bea McCarthy (D)
Sen. Chuck Swysgood (R)
Sen. Jack Wells (R)

Members Excused: None.

Members Absent: None.

Staff Present: Leanne Kurtz, Legislative Branch
Adrienne Pillatzke, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 59
SB 58
Executive Action: None

HEARING ON SB 59

Sponsor: SENATOR JACK WELLS, SD 14, Bozeman

Proponents: Pat Graham, Fish Wildlife & Parks
Charlie Decker, Fish Wildlife & Parks Commission
Randy Newberg, Headwaters Fish & Game Association
Gary Habeck, Ravalli County Fish & Wildlife
Association.
Stan Rauch, Montana Bowhunters Association.
Greg DiIorio, Madison Valley Sportsman
Van Jamison, Montana Wildlife Federation

Opponents: None

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Count: 3:00}

SENATOR JACK WELLS, SD 14, Bozeman, stated he is proposing SB 59 and SB 58. The reason for SB 58 is SB 59 imposes some fees and CI-75 would require to have a second bill to submit the fee scheduled to the voters. We developed a preference system for achieving a better chance of drawing moose, goat, sheep, elk and deer license special permits. SB 59 has two main purposes. One, is to present this preference system and secondly, it clarifies the law for a 12-year-old hunters.

A minor point of the bill is the secondary objectives that are to fund the operation of this preference system through some fees that we developed. The way this bill was written was a committee was formed with representatives from a number of different groups across the state, sportsman groups, hunters, fishermen, members of the FWP commission, bow hunters, stock growers, wild sheep representative, and a number of people. They met twice and had a number of phone conversations and developed this preference system that we would like to institute in 2001.

A survey was sent out to public and 70% reply were most supportive of the system developed. We looked at other states

with similar preference systems and tried to develop this system by taking some the best aspects of the systems in use by the other states. The system gives people who want to put in for the special permits and the hard-to-get permits like the moose, sheep and so forth. It gives them a little better chance of drawing a permit the longer they keep entering into the drawing. It does not guarantee anything. It is similar to the lottery system in the sense that a person who puts in the first time may be fortunate enough to draw a permit. However, each year you don't draw you get a bonus point and every year after that you put in your bonus points build up. Each year you are unsuccessful you get another point. It was also designed so if a hunter who does not want to participate doesn't have to, therefore, he wouldn't pay the \$3 fee which will be required of in-state hunters. Each year he does pay the \$3 fee then his bonus points will build up and then follow along drawings and follow along years he will have many more chances to draw a permit.

The full details of the bill will be explained by the FWP and other proponents. SB 58 addresses the \$3 fee for in-state hunters. A \$25 fee was developed for the use of nonresident hunters. A recognized problem with the nonresident hunters is before they can enter a drawing for a special permit they must be successful in drawing the license to hunt the particular specie. They could send in \$400-\$500 and be unsuccessful in drawing their license and they wouldn't be able to enter into the preference system that year. The way it works they wouldn't be able to build up bonus points. The opportunity was presented to buy a bonus point for \$25. If they don't draw successfully and want to buy a bonus point they can. We wanted to establish a sort of penalty on them and make it equitable in the comparison to resident hunters. Resident hunters could put in every year and automatically get a bonus point for \$3.

Proponents' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 3:06}

Pat Graham, Director of the Department of FWP, submitted **EXHIBIT(fis08a01)**, a list of the Advisory Committee members, **EXHIBIT(fis08a02)**, Bonus Point Preference System Proposal, **EXHIBIT(fis08a03)**, Questions and Answers of proposal, **EXHIBIT(fis08a04)**, Range of Success and **EXHIBIT(fis08a05)**. The department supports SB 59 and SB 58 and the recommendation of the

preference 2001 Advisory Committee. He stated the FWP commission heard the desire of hunters to have a preference system the last few years and asked the department to try to establish one. In order to get it done it was going to take legislation. The commission asked the FWP to point an advisory committee which was chaired by Commission Chairman Stan Meyer and Commissioner Charlie Decker from Libby. The old system was an absolute preference and once someone got into that preference system and was in the front of the line, they stayed in front. Anybody coming in later had no chance of getting a permit. The system got weighed down due to many people who had no chance of getting a permit.

The primary benefit of the new preference system is to increase your odds over time to get a permit and it still allows a first time applicant to have a chance to get a permit, a problem that existed in the old system. The comments allowed some additional changes in the preference system. The pie diagrams show the success of getting a moose, sheep and goat permit. He explained the pie graphs (**EXHIBIT 4**).

Charlie Decker, Member of the FWP Commission, said one of the most asked questions was how to get a moose, sheep or goat permit which are very sought after. The downside is somebody who lives in Montana for six months and draws a moose tag. Arizona has a similar system. There is support for this system and now there is a point of selling licenses where hunters can be tracked. I think it is a win-win for the sportsman of Montana.

Randy Newberg, Vice President of the Headwaters Fish and Game Association, Bozeman, also a member of the Advisory Committee for this preference point system entered **EXHIBIT(fis08a06)**. He states the members of this committee represented a very diverse group of people across the spectrum of Montana hunters. The only concern was the fact it would cost \$3 to enter. The proposal was changed and made it optional. When the people were called back, they seemed happy with it. This proposal was brought forward from the interest of hunters, developed by hunters, and is a benefit to hunters.

Gary Habeck, Ravalli County Fish Wildlife Association, had some concern with the fee increase and it has been adopted with the revenue neutral. We are quite satisfied with the proposal as it stands.

Stan Rauch, Montana Bowhunters Association, states the association strongly supports the points preference system for hunters to apply for Montana hunting and a license award to the annual session drawing. He submitted **EXHIBIT(fis08a07)**. The organization believed some kind of preference system was needed in the state. We supported the efforts of the FWP preference 2000 Advisory Committee as they constructed the proposal. The MBA feels that this was an initiative that was thought through and when enacted will effectively, and with equality, serve every sportsman who applies for the big game licenses. There is a definite need for this bonus point preference system. We are confident this proposal will effectively meet that need. We strongly support the proposal.

Greg DiIorio, Madison Valley Sportsman, thinks of the preference points as a pyramid with different levels. Hunters begin gathering points, they have started a broad base and worked their way to the top and then they're drawn. Each year the base widens because more and more people apply and the tag quota usually remains the same. The pyramid also grows higher so it takes more time to reach the top. This system was brought by the F&G in 1983. It was not allowing first time applicants a chance to draw. The bonus point system gives first time applicants a chance to draw and gives long time applicants a better chance. Madison Valley Sportsman strongly supports this type of system. He talked with many sportsmen, sportswomen, and sporting groups throughout the state of Montana. They are in favor and feel strongly about the bonus point system. Something needs to be done to improve the odds for longtime unsuccessful applicants. The process is long overdue.

Van Jamison, Montana Wildlife Federation, commented that this bill is citizen driven. The sportsmen and women throughout the state came together and identified what they construed to be a problem. With the assistance of the FWP Department, they sorted through the various options that were available to make the recommendations before you today. The Montana Wildlife Federation had a number of members participating in developing this approach to the preference system including Patricia Simmons, who supports SB 58 and SB 59. He entered **EXHIBIT(fis08a08)**. He is pleased with the language in this bill which identifies when a 12-year-old is able to apply for a special drawing.

Opponents' Testimony: None

{Tape : 1; Side : A; Approx. Time Counter : 3:20}

Questions from Committee Members and Responses:

SENATOR MCCARTHY referred to number 6 and 7 of **EXHIBIT 2**. She asked, "If I don't apply or don't send the \$3 in every single year, or if I miss two years, then I no longer get into the pyramid. Can you explain." **Dave Mott, Administration Finance and Licensing of FWP**, replied number 6 gets to the problem that the Advisory Committee was working on. Every year a person doesn't apply for licenses. They may be hurt, have a vacation plan, or something going on, they wanted to make sure it was set up so that if you missed sometime you would not miss all the points cumulated over the years and start back at zero. Number 6 says you can miss two full years and if you don't apply in the third year then you would lose all your points. The third year you have to be back in again or start at the beginning. **SENATOR MCCARTHY** asked does number 7 imply to a nonresident. **Mr. Mott** commented that is not specific but it is our intent that the two-year consecutive period applies to residents and nonresidents and the special condition that is laid out in number 7. Nonresidents have to apply first to get a license and get into preference drawing. He said it does apply to everybody. **SENATOR MCCARTHY** then asked what is a party application. **Mr. Mott** explained it is when people drive across the state and collectively apply as a group. If there are five people in the party and they all have different value bonus points, the party is assigned as an average of the people in that group.

SENATOR EKEGREN asked why the two-year stipulation. What would be wrong if they didn't reply for three, four or five years and leave the bonus points in there. Is there a particular reason why you take them out. **Mr. Mott** responded they need to start making a separation within the pool of applicants. If everybody marched along and had points it doesn't get to the main objective. That is for people who apply every year, who have a passion for hunting, who live and die for these kinds of things. It puts them a little bit ahead of the people below. **SENATOR WELLS** responded the committee felt that persistence should be rewarded. We wanted to make it incumbent on someone who has a desire to get these permits and are persistent and consistent.

That was the primary focus. Also recognized were people who may have personal problems, physical problems, or family problems of some sort that would prohibit them from applying one or two years so allowance was made for that. The committee didn't want to allow someone to take a relaxed attitude and not be penalized.

SENATOR SWYSGOOD questioned the combination license for the out-of-state hunter and the \$25 fee in the preference system. Is this written so if they are unsuccessful in the big game license the \$25 does not imply to them they would get preference in the next drawing for big game license. **Pat Graham** replied correct. The \$25 would be for the permit. **SENATOR SWYSGOOD** asked if it were for the sheep, goat or moose permit. **Mr. Graham** answered it would be for deer or elk. Like a cow or bull permit in the Elkhorns or a deer permit because they don't have the opportunity of applying for cow permits or deer permits. You need to have a license in order to apply for the permit. The reason for having that exception is for nonresidents. The commission could utilize the bonus point system in the drawings for the combination licenses but it would be like all the rest of them. They wouldn't have to pay the \$25 if they can choose or not to choose for the combination licenses. The \$25 is a payment for big game, deer or elk combination license, and were unsuccessful but still want to keep their name in for the permit, but were not allowed to draw for.

SENATOR SWYSGOOD replied that he knows what they are trying to do but isn't sure that is what it is saying. It says a person who is not a resident and is unsuccessful in the big game combination license drawing may pay a fee of \$25 to participate in the hunting license preference system established by the commission. They would think that they are getting a preference on the next drawing for the big game combination license. **Mr. Graham** responded that the way this is written it is written broadly and doesn't specifically direct the commission to implement a preference for any license that gives them the authority to implement it for moose, sheep, and goat or not. It doesn't specify. They would have to do it for antelope. It allows them to do it.

The commission would have the authority under this legislation to create a bonus point for a big game combination license itself. That would be encumbered in the preference fee for the nonresident application for that license. If they are

unsuccessful for the license, this provision is so they could participate in the deer or the elk permit drawings in addition to that. The commission would have authority under this bill to establish a bonus point preference for both licenses or anything done through a drawing. They could establish a bonus point system for big game combination license.

Currently the commission does have an absolute preference system for big game combination licenses. It works because about 5,000 people are unsuccessful for 11,500 licenses those 5,000 people, if they choose to reapply are essentially guaranteed a license the next year. The fewer people who are unsuccessful the fewer licenses available. That system is already in place but would be replaced by the bonus point system. They wouldn't get an absolute preference, they would just have an increased odd over people that were drawing for the first time.

SENATOR MCCARTHY asked if FWP is anticipating to return any of the \$25 checks. **Pat Graham** said he was not sure why they would return it. **SENATOR MCCARTHY** asked how much money is going to be picked up with the unsuccessful hunters. **Mr. Graham** stated the \$3 preference fee is established based on the cost of doing business. The committee recommendation was for nonresidents to pay a higher fee. The nonresidents who are unsuccessful in the drawing for big game combination license, in order to stay in, would pay the full \$25. There would be some handling because they would be treated as if they had applied for a permit so their name would still go into the system. They would have to be tracked like everybody else. **SENATOR MCCARTHY** asked about a \$20 profit per customer. **Mr. Graham** replied per nonresident is correct. **SENATOR MCCARTHY** asked how many participate. **Dave Mott** replied about 6,500. **SENATOR MCCARTHY** asked what times \$20-25 would amount to and where does that money go. **Dave Mott** said it would go into paying for the preference.

SENATOR BISHOP asked how much of this gives the commission additional ruling or do we have a statement of intent. **Leanne Kurtz** responded statements of intent aren't used in legislation. The guidelines are required to appear in the bill and are in Section (1) subsection (5). This replaces what a statement of intent would have which are rule-making guidelines.

CHAIRMAN MESAROS referred to page two, line 20-21. It has some

language pertaining to land owners. "The owner of land that provides some significant habitat benefit for wildlife, as determined by the commission." Define what some significant habitat would be. **Mr. Graham** replied right now a landowner preference system is in place. In our audit, a number of years ago, they raised the question whether or not FWP had specific legislative authority for the commission to develop that landowner preference system. This is the language that will simply be to maintain the existing landowner preference system the FWP currently have but do it statutorily so it can be removed from the report. The commission felt they had the broad authority to create the landowner preference system and we were in a debate with the legislative auditors over that point. FWP didn't feel it necessary to bring a piece of legislation to address that but since FWP were going ahead with this preference legislation we thought we would clear that up. Basically, it is to carry forward the landowner preference system that is already in place. It is not meant to change it.

SENATOR TAYLOR asked how did you arrive at the \$25 fee. **Mr. Graham** responded that was recommended to the department in commission by the committee. **SENATOR WELLS** stated he suggested the \$25 and that is how the committee arrived at it. The committee discussed other figures but didn't develop any consensus that a higher figure was necessary. The committee felt \$25 was sufficient to make a nonresident hunter willing to participate, willing to sacrifice something to buy the bonus point, but was over and above a resident hunter.

SENATOR SWYSGOOD said since CI-75 states people will vote on a fee increase, how are the nonresidents going to vote on this fee increase. **Pat Graham** replied that nonresident fees are exempted from CI-75. When the cost of doing the system was put together, the cost analysis was determined and showed it should be the appropriate fee for residents and nonresidents. The goal was to make a revenue system, the goal was not to generate revenue, so what they did is they took an estimate of resident and nonresident cost based on the recommendation the committee made of the \$25 fee for the nonresident. The nonresident fee is higher, it would cost to process any individual nonresident application, but in total the system was designed to be revenue neutral. The recommendation of the advisory committee that was made to the department. They didn't want the department to design a system like Arizona which charges \$85 for a bonus point

and which is clearly to raise revenue for the Department of Fish and Game. That discussion occurred in the committee to whether or not this system should be designed a revenue generating system or revenue neutral. The committee's recommendation was it should be revenue neutral and should not be out trying to gouge people for that.

SENATOR MCCARTHY said that number 12 on the green paper said there is going to increase to \$6 from the \$3. **Pat Graham** responded the current fee is \$3. **SENATOR MCCARTHY** stated that is right and you are going to raise to \$6. **Mr. Graham** answered that is voluntary, if you want to sign up. The fee doesn't rise unless you choose to participate in the drawing system. So the fee would stay at \$3. **SENATOR MCCARTHY** asked if six dollars to participate in the drawing was a pyramid. **Mr. Graham** responded if you want to participate in the preference system you would be assessed a \$6 fee, if you chose not to pay the existing \$3 fee.

SENATOR SWYSGOOD stated the increased price is on the out-of-state hunters, so you are subsidizing the resident hunter at the expense of the out-of-state hunter, who are not here to defend themselves.

{Tape : 1; Side : B; Approx. Time Counter : 3:43}

Pat Graham replied that is how the department is run.

Closing by Sponsor:

SENATOR WELLS stated he believed the committee put together a good bill. I agree that the wording pointed out sounds like the nonresident would be given the opportunity to draw a hunting license. We need to look at the wording of that and work in permits or something to distinguish between the fact they're putting in for a combination license and then go into the preference system for a permit on the different species. I think the bill will meet the requirements of sportsmen in Montana. It does not guarantee anyone a permit but it does increase the chances of drawing. It allows the system to be paid for through the sportsmen's fees. The sportsmen recognized the increase in fees and once made optional, they didn't have objections. I believe it meets the requirements and with SB 58 it should meet the requirements of CI-75. I would recommend a Do Pass.

{Tape : 1; Side : B; Approx. Time Counter : 3:45}

HEARING ON SB 58

Sponsor: SENATOR JACK WELLS, SD 14, Bozeman

Proponents: Dave Mott

Opponents: None

Opening Statement by Sponsor:

SENATOR WELLS, SD 14, Bozeman, stated on SB 58, since the committee established a \$3 additional fee in the license for the bonus preference system, we needed to meet requirements of CI-75. We have written that the applicant participates in the preference system and the basis of the bill is the new section at the bottom where it is stated how it will be put on the ballot to Montana voters. The question will a new tax is imposed. They can vote for or against establishing an additional \$3 drawing fee in the license preference system. That will fund the operation of the system along with additional funds drawn from the out-of-state applicants.

Proponents' Testimony:

{Tape : 1; Side : B; Approx. Time Counter : 3:46}

Dave Mott stated he wanted to address the finances one more time. The design of the \$3 fee and the \$25 was to try to keep it revenue neutral. When you develop the cost to run it and back into it we won't be using hunters' or fishers' dollars that aren't participating designed specifically for the people benefitting from it.

Opponents' Testimony: None

Questions from Committee Members and Responses:

{Tape : 1; Side : B; Approx. Time Counter : 3:47}

SENATOR SWYSGOOD questioned why didn't you just make out-of-state hunters pay \$28 and unpack the whole load without going to the voters. **SENATOR WELLS** replied we discussed somehow something had to be indicated that a person was applying for a bonus point. When it was discussed the committee felt we shouldn't have the out-of-state hunters pay the whole thing. The in-state hunters should pay something for the additional service and it would distinguish them from those who didn't want to participate in the preference system. If there wasn't any charge then everybody would ask for a bonus point in resident hunters. By adding the \$3 and the option, it would divide the ones who wanted to participate and those who didn't. The \$25 was a figure we felt was substantial enough to force nonresident people to step up but it wasn't high enough to generate income. **SENATOR SWYSGOOD** asked what are you going to do if the voters don't approve it. **SENATOR WELLS** responded we would regroup and try to come up with a system that didn't cost anything. But I don't think that would be feasible in order to have a system that was workable and be better than the old system in place. We recognized that we have to have very good bookkeeping, very good records, and people who are tentative to the requirements of the program. I don't see it as a possibility without of some sort of cost to fund it. If it is disapproved by the voters then we won't have a system, at least for a while.

SENATOR SWYSGOOD asked if the out-of-state hunter elects to send his \$25 in since he is not constrained according to the CI-75. Would you run that program for them and not for the in-state hunter. **Pat Graham** replied that on Pg. 11, section 13, that says if not passed, then approved, then section 1 through 7 of this act will be void. The whole system would be gone.

SENATOR FRANKLIN asked should we be having fiscal notes indicating some cost for election that commence CI-75 subcommittees. **Pat Graham** commented he does not know how that process is going to be done. We weren't asked to calculate.

Angela Fultz, Secretary of State, replied there has been a fiscal note requested. We have submitted information to the budget office. They're in the process of figuring out exactly how to deal with it. We have approached it so you know the fiscal note from the stand point that because there is not a tax election in code we have to assume it is a special statewide election as with

all the fee question heard. It is also the assumption that the expense for the counties has to be dealt with because it is an additional election that they are holding. They are in the process of finalizing, but I would anticipate a fiscal note on this since it has been requested.

Closing by Sponsor:

SENATOR WELLS stated he suspected throughout the legislative session there will be a number of things that are proposed to the voters and hopefully can be put all on a ballot and distribute the cost. I would anticipate the fiscal effect on each additional bill will look big, but when accumulated together, it will look small. Hopefully, it would on this particular bill.

ADJOURNMENT

Adjournment: 3:53 P.M.

SEN. KEN MESAROS, Chairman

ADRIENNE PILLATZKE, Secretary

KM/AP

EXHIBIT(fis08aad)